

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

KRISTIN DAVIS,

Plaintiff,

v.



23-CV-116 (JLS) (JJM)

STATE OF NEW YORK, OFFICE OF
MENTAL HEALTH (BUFFALO
PSYCHIATRIC CENTER) and ANN
MARIE T. SULLIVAN, M.D.
COMMISSIONER OF THE STATE OF
NEW YORK OFFICE OF MENTAL
HEALTH, in her official capacity,

Defendants.

DECISION AND ORDER

Plaintiff Kristin Davis initiated this action to pursue claims under the Americans with Disabilities Act (“ADA”) and the Rehabilitation Act of 1973 (“RA”). Dkt. 1; Dkt. 12; Dkt. 24. On May 16, 2024, Defendants moved to dismiss. Dkt. 27. Plaintiff responded in opposition (Dkt. 31), and Defendants replied. Dkt. 34.

On October 15, 2024, Judge McCarthy¹ issued a Report and Recommendation (“R&R”), recommending that this Court grant Defendants’ motion to the extent that it seeks to dismiss Plaintiff’s Second Cause of Action, but otherwise deny the motion. Dkt. 36, at 15.² On October 29, 2024, Defendants objected to the

¹ This Court referred the case to United States Magistrate Judge Jeremiah J. McCarthy for all proceedings under 28 U.S.C. §§ 636(b)(1)(A), (B), and (C). Dkt. 7.

² The page numbers refer to the CM/ECF pagination in the header of each page.

R&R—particularly to Judge McCarthy’s recommendation to deny the motion. Dkt. 37, at 6. Plaintiff responded (Dkt. 39), and Defendants replied. Dkt. 40.

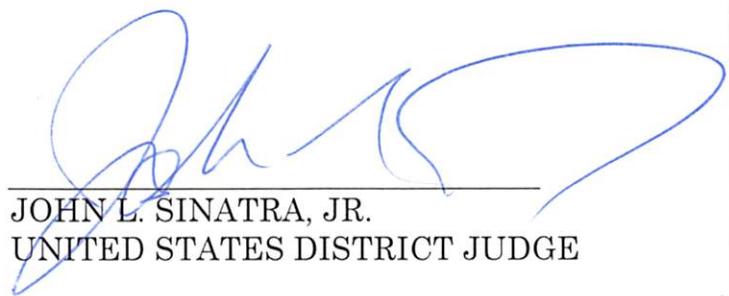
A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge’s recommendation to which a party objects. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985).

This Court carefully reviewed the R&R, the objections briefing, and the relevant record. Based on its *de novo* review, the Court accepts and adopts Judge McCarthy’s recommendation.

For the reasons stated above, and in the R&R, this Court GRANTS Defendants' motion to dismiss to the extent it seeks to dismiss Plaintiff's Second Cause of Action. Defendants' motion to dismiss is otherwise DENIED. The case is referred back to Judge McCarthy for further proceedings consistent with the June 28, 2023 referral order. Dkt. 7.

SO ORDERED.

Dated: February 10, 2025
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE